THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.17415 of 2005

Dt:17.08.2005

Between:

N.Malleswar Rao

.. Petitioner

and

The Deputy Collector and Mandal Revenue

Officer and another.

.. Respondents

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.17415 of 2005

ORDER:

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This writ petition is filed by the petitioner to declare the action of the first respondent in initiating proceedings dated 04.07.2005 under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act (for short 'the Act'), 1977, as illegal and arbitrary and violative of Article 21 and 300-A of the Constitution of India.

The facts of the case, in brief, are as follows:

The petitioner purchased an extent of Ac.2.12 guntas in Sy.No.88 of Nizampet

village, Qutubullapur Mandal, Ranga Reddy District from G.Latchi Raju under a registered sale deed dated 09.10.1992. Since the date of purchase, he has been in possession and enjoyment of the same. It is stated that the first respondent after a lapse of 13 years initiated the impugned proceedings under the Act. In the said proceedings the above said land was described as “Laoni Patta”. In the said notice, it was not mentioned as to whom the Laoni Patta was issued. It is the case of the petitioner that there is no prohibition of alienation of Laoni patta lands granted prior to 1958 and the condition imposing prohibition of alienation of Laoni Patta was introduced vide G.O.Ms.No.1406 dated 25.07.1958. Though under the Act, no limitation is prescribed for resuming lands for any contravention, it has been consistently held by courts that such power should be exercised within reasonable time. It is the further case of the petitioner that he purchased the said land by paying valid consideration and that no notice was issued to him before issuing the impugned notice. Hence, this writ petition.

The respondents filed their counter-affidavit stating that as per revenue records, the land admeasuring Ac.2.12 guntas in Sy.No.88, situated at Nizampet village is classified as “Poramboke Sarkari”. The then Tahsildar issued assignment patta certificate in respect of the above said land in favour of Tulsi Yellaiah and his name was recorded as Laoni pattedar. The said assignment is made under G.O.Ms.No.1406 dated 25.07.1958. It is further stated that as per the provisions of the Act, the assigned lands are heritable, but not alienable. After the death of Tulsi Yellaiah, his wife Smt.Tulsi Veeramma through her G.P.A., Holder sold an extent of Ac.2.12 guntas to the petitioner under a registered document dated 09.10.1992. Since there is a violation of assignment as per G.O.Ms.No.1406 dated 25.07.1958 and the Provisions of the A.P. Assigned Lands (POY) Act 1977, notice under Section 3 (2) of the Act has been issued to Smt.T.Veeramma and the petitioner herein, who is the purchaser. Since 1992, the petitioner never approached the authorities to mutate his name in the revenue records. For that reason, no action has been taken under the provisions of the Act. It is further submitted that the assignment of land in Sy.No.88 of Nizampet village has been made subsequent to the year 1958 and so it attracts the provisions of the said G.O. It is contended that the writ petition is not maintainable against a show cause notice as the same is at the threshold of enquiry and the petitioner without submitting his explanation to the impugned notice, filed this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

In view of the facts and circumstances of the case, I am of the considered view that the petitioner instead of approaching this Court could have submitted an explanation to the show cause notice or made an application requesting the authorities to furnish the details of the information required for him to submit his detailed explanation to the show-cause notice. Therefore, the writ petition is liable to be dismissed.

The writ petition is accordingly dismissed. It is, however, left open for the petitioner to submit his explanation to the impugned notice within a period of four weeks from the date of receipt of a copy of this order. It is also open for the petitioner to seek necessary information and documents from the authorities concerned to defend his case. There shall be no order as to costs.

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17.08.2005

kdl